

Persons that are engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their gross receipts from such sales. See the Department's regulation "Vendors of Meals" at 86 Ill. Adm. Code 130.2145. (This is a GIL.)

April 26, 2006

Dear Xxxxx:

This letter is in response to your letter dated October 17, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our hotel has been in communication with INDIVIDUAL from the Illinois Department of Revenue Excise Taxes Division, regarding whether or not the state requires hotels to tax service charges for banquet functions. It was unclear to INDIVIDUAL whether this tax should exist. We are only referring to companies or individuals that have catering events at our hotel.

If at all possible please provide us a written response on whether or not we should tax gratuities on these checks.

Please feel free to call if you should have any further questions.

DEPARTMENT'S RESPONSE

Persons that are engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their gross receipts from such sales. See 86 Ill. Adm. Code 130.2145. Such persons specifically include caterers. Subsection 130.2145(d) discusses mandatory service charges.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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